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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/302,825	04/30/1999	RICHARD J. PEARSON	101069-0170	7476

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EXAMINER

DAVIS, TEMICA M

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 06/19/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

94

Office Action Summary

Application No.

09/302,825

Applicant(s)

Pearson

Examiner

Temica M. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 2, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6-20, 22, 24-29, 31, and 33 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3, 4, 6-15, 20, 22, 29, 31, and 33 is/are allowed.
- 6) ☒ Claim(s) 16-19 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Reassignment Affecting Application Location

1. The art unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to art unit 2681.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-19 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doiron et al (Doiron), WO 98/23050, Zicker, U.S. Patent No. 5,794,141 and Yamada, U.S. Patent No. 5,414,751.

Regarding claim 16, Doiron discloses a base station for programming one or more wireless subscriber terminals in a wireless system, the base station comprising: inherently a transmitter for transmitting forward messages to wireless subscriber terminals over an air interface (figure 1), the forward messages including the one or more program segments (page 7,

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line 27-page 8, line 6, page 9, lines 5-26); inherently a receiver for receiving reverse messages from wireless subscriber terminals over the air interface (page 12, lines 10-13, page 14, lines 11-29); and a inherently processor connected to the transmitter, and the receiver for controlling operation of the base station (figure 1).

Doiron fails to specifically the base station capable of storing programming information, but rather shows the base station first receiving programming information from a communication manager and then transmitting that programming information to remote terminals (page 8, lines 2-6).

In a similar field of endeavor, Zicker discloses a multi-mode communication network with handset-assisted cordless base station activation.

Zicker further discloses a base station that stores programming information, and then transmits that programming information to a mobile device (col. 7, line 38-col. 8, line 43 and col. 12, lines 47-54).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Doiron with the teachings of Zicker, since it is well known in the art that base stations are capable of storing information, specifically programming information.

The combination of Doiron and Zicker fails to disclose wherein the program segments can be selectively transmitted without regard to sequence.

In a similar field of endeavor, Yamada discloses a wireless apparatus responsive to control signals for mending or updating operational programming.

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Yamada further discloses transmitting program segments selectively without regard to sequence as evidenced by the fact previously transmitted programming data in which errors have been detected (via parity check) can be retransmitted (col. 4, lines 33-46).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Doiron and Zicker with the teachings of Yamada for the purpose of only retransmitting program portions which have been received in error. Such a feature would decrease the unnecessary use of system resources by eliminating the need to retransmit the entire programming information.

Regarding claim 17, the combination of Doiron, Zicker and Yamada discloses the base station of claim 16, the forward messages including broadcast firmware start messages and the reverse messages including broadcast firmware start response messages (Doiron, figures 4-9 and accompanying text).

Regarding claim 18, the combination of Doiron, Zicker and Yamada discloses the base station of claim 16, the forward messages including broadcast firmware status request messages and the reverse messages including broadcast firmware status messages (Doiron, figures 4-9 and accompanying text).

Regarding claim 19, the combination of Doiron, Zicker and Yamada discloses the base station of claim 16, the forward messages including firmware switch over messages (Doiron, figures 4-9 and accompanying text).

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4. Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doiron and Yamada.

Regarding claim 24, Doiron discloses a wireless subscriber terminal for use in a wireless system, the terminal comprising: inherently a memory as evidenced by the fact that the mobile stores programming information (page 9, lines 5-15); a transmitter for transmitting reverse messages from the terminal over an air interface (page 16, line 30-page 17, line 9; figure 1), a receiver for receiving forward messages from a base station, the forward messages including the one or more program segments (page 11, line 11-21, page 9, lines 5-15; figure 1); and inherently a processor connected to the memory, the transmitter, and the receiver for controlling the terminal, and for storing the one or more program segments in the memory as evidenced by the fact mobile is able to perform these functions.

Doiron, however, fails to specifically disclose wherein the program segments are transmitted irrespective of their sequence.

Yamada discloses transmitting program segments irrespective of their sequence as evidenced by the fact previously transmitted programming data in which errors have been detected (via parity check) can be retransmitted (col. 4, lines 33-46).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Doiron with the teachings of Yamada for the purpose of only retransmitting program portions which have been received in error. Such a feature would decrease the

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unnecessary use of system resources by eliminating the need to retransmit the entire programming information.

Regarding claim 25, the combination of Doiron and Yamada discloses the terminal of claim 24 wherein the forward messages include broadcast firmware start messages and the reverse messages include broadcast firmware start response messages (Doiron, figures 4-9).

Regarding claim 26, the combination of Doiron and Yamada discloses the terminal of claim 24 wherein the forward messages include broadcast firmware status request messages and the reverse messages include broadcast firmware status messages (Doiron, figures 4-9).

Regarding claim 27, the combination of Doiron and Yamada discloses the terminal of claim 24 wherein the forward messages include firmware switch over messages (Doiron, figures 4-9).

Regarding claim 28, the combination of Doiron and Yamada discloses the terminal of claim 24 wherein the forward messages including the one or more program segments are broadcast messages (Doiron, figures 4-9).

Allowable Subject Matter

5. The following is a statement of reasons for the indication of allowable subject matter: Regarding independent claims 1, 13, 20 and 29, prior art fails to disclose or render obvious a method/system for programming wireless subscriber terminals (WST's) in a wireless communications system, wherein the WST's receive, via control channels, information regarding

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new control programs from base stations, wherein the WST's transmit a response message to the base station which indicates whether the terminal will be a recipient for the new control program and wherein each WST receives status request to determine if specific data blocks are missing, and if so, retransmitting to the WST's select missing data blocks.

Response to Arguments

6. Applicant's arguments with respect to claims 16-19 and 24-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service whose telephone number is (703)306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for any communications intended for entry).

*Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*



Temica M. Davis
June 13, 2003



NGUYEN T. VO
PRIMARY EXAMINER